

The Honorable Robert S. Lasnik

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

STATE OF WASHINGTON,

Plaintiff,

v.

U.S. NATIONAL ARCHIVES AND
RECORDS ADMINISTRATION, an agency of
the United States of America,

Defendant.

Case No. 2:20-cv-1232-RSL

ANSWER

COMES NOW, Defendant United States National Archives and Records Administration (“NARA”) by and through Brian T. Moran, United States Attorney, Western District of Washington, and Katie D. Fairchild, Assistant United States Attorney for said District, and hereby answers Plaintiff’s Complaint, Dkt. 1, as follows:

In response to the numbered paragraphs of the Complaint, NARA admits, denies, or otherwise answers as follows:

I. INTRODUCTION

1. The allegations in Paragraph 1 sets forth Plaintiff’s characterization of this action, to which no response is required. To the extent that a response is deemed necessary, NARA admits that the action is brought pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C.

1 § 552 and that Plaintiff requested agency records. The FOIA statute speaks for itself and NARA
2 denies any characterization of FOIA inconsistent with the language of the statute.

3 2. NARA admits that the National Archives at Seattle facility is located at 6125 Sand
4 Point Way NE, Seattle, WA 98115. The remaining allegations in Paragraph 2 consist of
5 allegations that are immaterial to this FOIA action, provide no claim for relief under FOIA, nor
6 support a claim to which a response is required. To the extent that a response is deemed necessary,
7 NARA states that the FOIA statute speaks for itself and denies any characterization of FOIA
8 inconsistent with the language of the statute.

9 3. NARA admits the first sentence of Paragraph 3. The remaining allegations in
10 Paragraph 3 consist of Plaintiff's characterization of NARA's holdings at its Seattle facility and
11 Plaintiff's characterization as to who uses the Seattle facility and the frequency with which it is
12 used. These allegations are immaterial to this FOIA action, provide no claim for relief under
13 FOIA, nor support a claim to which a response is required. To the extent that a response is deemed
14 necessary, NARA states that the FOIA statute speaks for itself and denies any characterization of
15 FOIA inconsistent with the language of the statute.

16 4. The allegations in paragraph 4 consist of Plaintiff's characterizations of the PBRB
17 Report, which are immaterial to this FOIA action, provide no claim for relief under FOIA, nor
18 support a claim to which a response is required. To the extent that a response is deemed necessary,
19 NARA states that the FOIA statute speaks for itself and denies any characterization of FOIA
20 inconsistent with the language of the statute.

21 5. The allegations in paragraph 5 consist of Plaintiff's characterizations of the actions
22 of other entities, which are immaterial to this FOIA action, provide no claim for relief under FOIA,
23 nor support a claim to which a response is required. To the extent that a response is deemed
24 necessary, NARA states that the FOIA statute speaks for itself and denies any characterization of
25 FOIA inconsistent with the language of the statute.

26 6. The allegations in paragraph 6 consist of Plaintiff's characterizations of the PBRB
27 Report, which are immaterial to this FOIA action, provide no claim for relief under FOIA, nor

1 support a claim to which a response is required. To the extent that a response is deemed necessary,
2 NARA states that the FOIA statute speaks for itself and denies any characterization of FOIA
3 inconsistent with the language of the statute. NARA further answers that the PBRB report speaks
4 for itself and denies any characterization of it inconsistent with its contents.

5 7. NARA admits it received a FOIA request, dated February 3, 2020, from Plaintiff
6 via electronic mail.

7 8. The allegations in Paragraph 8 contain Plaintiff's characterization of its FOIA
8 request, the content of which speaks for itself, and to which no response is required. NARA
9 respectfully refers the Court to Plaintiff's FOIA request for a complete and accurate statement of
10 its contents and denies any characterization inconsistent with the language of Plaintiff's FOIA
11 request.

12 9. To the extent that the allegations in Paragraph 9 purport to characterize a
13 communication from NARA to Plaintiff, NARA answers that the contents of any written
14 communication received from NARA speak for themselves, and NARA denies any
15 characterization inconsistent with the language of that communication. NARA is without
16 sufficient information at this time to know when Plaintiff received the communication described
17 in Paragraph 9 and therefore denies those allegations at this time.

18 10. Denied. By way of further answer, NARA states that at least two email
19 communications were sent to Plaintiff acknowledging its FOIA request, the contents of which
20 speak for themselves.

21 11. The allegations in Paragraph 11 sets forth Plaintiff's characterization of this action,
22 to which no response is required. These allegations are immaterial to this FOIA action, provide
23 no claim for relief under FOIA, nor support a claim to which a response is required. To the extent
24 that a response is deemed necessary, NARA states that the FOIA statute speaks for itself and
25 denies any characterization of FOIA inconsistent with the language of the statute.

26 II. JURISDICTION AND VENUE

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1 itself and denies any characterization of FOIA inconsistent with the language of the statute.

2 20. Paragraph 20 consists of legal conclusions to which no response is required. To
3 the extent that a response is deemed necessary, NARA states that the FOIA statute speaks for
4 itself and denies any characterization of FOIA inconsistent with the language of the statute.

5 V. STATEMENT OF FACTS

6 21. NARA admits it received a FOIA request, dated February 3, 2020, from Plaintiff
7 via electronic mail.

8 22. The allegations in Paragraph 22 contain Plaintiff's characterization of its FOIA
9 request, the content of which speaks for itself, and to which no response is required. NARA
10 respectfully refers the Court to Plaintiff's FOIA request for a complete and accurate statement of
11 its contents and denies any characterization inconsistent with the language of Plaintiff's FOIA
12 request.

13 23. To the extent that the allegations in Paragraph 23 purport to characterize a
14 communication from NARA to Plaintiff, NARA answers that the contents of any written
15 communication received from NARA speak for themselves, and NARA denies any
16 characterization inconsistent with the language of that communication. NARA is without
17 sufficient information at this time to know when Plaintiff received the communication described
18 in Paragraph 23 and therefore denies those allegations at this time.

19 24. Paragraph 24 consists of legal conclusions to which no response is required. To
20 the extent that a response is deemed necessary, NARA states that the FOIA statute speaks for
21 itself and denies any characterization of FOIA inconsistent with the language of the statute.

22 25. Denied. By way of further answer, NARA states that at least two email
23 communications were sent to Plaintiff acknowledging its FOIA request, the contents of which
24 speak for themselves.

25 32. Paragraph 32¹ consists of legal conclusions to which no response is required. To

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27 ¹ Plaintiff's numbering appears to have an error. NARA's numbering follows the numbering in Plaintiff's
Complaint, Dkt. 1.

the extent that a response is deemed necessary, NARA states that the FOIA statute speaks for itself and denies any characterization of FOIA inconsistent with the language of the statute.

VI. FIRST CLAIM FOR RELIEF

Violation of the Freedom of Information Act – Failure to Respond

5 U.S.C §§ 552(a)(3), (a)(4)(B)

34. Paragraph 34 purports to reallege and incorporate all preceding paragraphs and therefore no response is required. To the extent a response is required, the NARA reasserts its response to all preceding paragraphs.

35. Paragraph 35 consists of legal conclusions to which no response is required. To the extent that a response is deemed necessary, NARA states that the FOIA statute speaks for itself and denies any characterization of FOIA inconsistent with the language of the statute.

VII. SECOND CLAIM FOR RELIEF

Violation of the Freedom of Information Act—Failure to Produce Records

5 U.S.C §§ 552(a)(3), (a)(4)(B)

36. Paragraph 36 purports to reallege and incorporate all preceding paragraphs and therefore no response is required. To the extent a response is required, NARA reasserts its response to all preceding paragraphs.

37. Paragraph 37 consists of legal conclusions to which no response is required. To the extent that a response is deemed necessary, NARA states that the FOIA statute speaks for itself and denies any characterization of FOIA inconsistent with the language of the statute.

VIII. PRAYER FOR RELIEF

The remainder of Plaintiff's Complaint sets for Plaintiff's prayer for relief, to which no response is required. To the extent that a response may be deemed necessary, NARA states that Plaintiff is not entitled to the requested relief.

GENERAL DENIAL

Pursuant to Rule 8(b)(3) NARA denies all allegations in the Complaint which it has not otherwise specifically admitted or denied herein.

DEFENSES

1. As to some or all of the claims asserted in this action, Plaintiff has failed to state a claim

1 upon which relief may be granted under FOIA.

2 2. As to some or all of the claims asserted in this action, Plaintiff has failed to exhaust
3 administrative agencies as required by FOIA.

4 3. Plaintiff has not established a right to attorney's fees.

5 4. To the extent that the Complaint refers to or quotes from external documents or other
6 sources, NARA's answer may refer to these materials; however NARA's references are not
7 intended to be, nor should they be construed to be, and admission that the materials cited in
8 Plaintiff's Complaint are: (a) correctly cited or quoted by Plaintiff; (b) relevant to this or any
9 other action; or (c) admissible in this, or any other action.

10 5. NARA reserves the right to amend, supplement, and assert additional affirmative defenses.

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14 DATED this 17th day of September, 2020.

15 Respectfully submitted,

16 BRIAN T. MORAN
17 United States Attorney

18 s/Katie D. Fairchild
19 KATIE D. FAIRCHILD, WSBA #47712
20 Assistant United States Attorney
21 United States Attorney's Office
22 700 Stewart Street, Suite 5220
23 Seattle, Washington 98101-1271
24 Phone: 206-553-4358
25 Fax: 206-553-4067
26 Email: katie.fairchild@usdoj.gov

27 *Attorney for Defendant*